



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18th STREET - SUITE 300  
DENVER, COLORADO 80202-2466  
<http://www.epa.gov/region08>

August 8, 2003

8ENF-L

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Robert Jones, President  
Bob Jones Tire Corp.  
4621 South 900 East  
Salt Lake City, UT 84117

Re: Administrative Complaint and Notice of  
Opportunity for Hearing, Docket No. **CAA-08-  
2003-0002**

Dear Mr. Jones:

Enclosed is an Administrative Complaint and Notice of Opportunity for Hearing ("Complaint"), that the United States Environmental Protection Agency, Region 8 ("EPA") is issuing to Bob Jones Tire Corp. ("Bob Jones Tire") under the authority of section 113(d)(1)(B) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(d)(1)(B). In the Complaint, EPA alleges that Bob Jones Tire has violated section 609(c) and (d) of the CAA, 42 U.S.C. § 7671h(c) and (d), and regulations set forth in 40 C.F.R. Part 82, Subpart B, pertaining to the servicing of motor vehicle air conditioners. The violations that EPA is alleging are specifically set out in the Complaint. The Complaint proposes that a penalty of \$65,029 be assessed against Bob Jones Tire for these violations.

By law, Bob Jones Tire has the right to request a hearing regarding the violations alleged in the Complaint and the appropriateness of the proposed administrative civil penalty. Please pay particular attention to the section of the Complaint entitled "Notice of Opportunity to Request a Hearing." If Bob Jones Tire wishes to request a hearing, it must file within thirty (30) days after service of the enclosed Complaint, a written Answer with the EPA Regional Hearing Clerk at the address set forth in the Complaint. The written request must follow the requirements of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,



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Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits” at 40 C.F.R. Part 22, a copy of which is enclosed. Note that should Bob Jones Tire fail to request a hearing within thirty (30) days after service of the Complaint, Bob Jones Tire may be found to be in default and the proposed civil penalty may be assessed against it without further proceedings.

If Bob Jones Tire wishes to resolve this matter without further legal action, Bob Jones Tire may waive its right to a hearing and, within thirty days of receipt of this letter, pay the proposed penalty to “Treasurer, United States of America,” at the address set forth in the Complaint.

Whether or not Bob Jones Tire requests a hearing, its representatives may confer informally with EPA concerning the alleged violations and the amount of the proposed penalty. EPA encourages all parties against whom it files a Complaint proposing assessment of a penalty to pursue the possibility of settlement as a result of an informal conference. If such a mutually satisfactory settlement can be reached, it will be formalized by the issuance of a Consent Agreement signed by Bob Jones Tire and the delegated official in EPA Region 8. The issuance of such a consent agreement shall constitute a waiver by Bob Jones Tire of its right to a hearing on, and to a judicial appeal of, the agreed upon civil penalty.

A request for an informal conference with EPA does not extend the thirty (30) day period within which Bob Jones Tire must request or waive its right to a hearing, and the two procedures can be pursued simultaneously. Bob Jones Tire has the right to be represented by an attorney at any stage in the proceedings, including any informal discussions with EPA, but it is not required.

Although the alleged violations in the Complaint are the same as those that were the subject of the Compliance Order (“Order”) that was mailed to you on June 24, 2003, the Complaint is completely independent from the Order. Whereas the Order was intended to ensure Bob Jones Tire’s immediate compliance with the law, the Complaint seeks redress for past violations and to further ensure that these violations do not recur. As we advised in the cover letter to the Order, “the issuance of this Order does not preclude the initiation of administrative penalty proceedings or civil or criminal actions in the U.S. District Court for the violations cited in the Order or for any other violations that Bob Jones Tire Corp. may have committed prior to or may commit after the issuance of the enclosed Order.”



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Please review the Complaint carefully and pay close attention to the deadlines set forth therein. If you have any questions, the most knowledgeable persons on my staff are Carol Smith, Environmental Engineer, (for technical issues) who can be reached at (303) 312-7815, and Sheldon Muller, Enforcement Attorney, (for legal issues) who can be reached at (303) 312-6916.

Sincerely,

**A. M. Gaydosh for/**

Carol Rushin  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosure:

Administrative Complaint and Notice of Opportunity for Hearing  
(including its enclosures)

cc: Richard Sprott, UT-DEQ



**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

<b>IN THE MATTER OF:</b>	)	<b>ADMINISTRATIVE COMPLAINT AND</b>
	)	<b>NOTICE OF OPPORTUNITY FOR</b>
<b>Bob Jones Tire Corporation</b>	)	<b>HEARING</b>
<b>4621 South 900 East</b>	)	
<b>Salt Lake City, Utah, 84117</b>	)	Proceedings to Assess a Civil
	)	Administrative Penalty Under
	)	Section
	)	113(d)(1)(B) of the Clean Air Act,
<b>Respondent.</b>	)	42 U.S.C. § 7413(d)(1)(B)
_____	)	

Docket No. **CAA-08-2003-0002**

**I. STATUTORY AUTHORITY**

1. This Administrative Complaint and Notice of Opportunity for Hearing (“Complaint”) is issued pursuant to section 113(d)(1)(B) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d)(1)(B), as amended on November 15, 1990, for violation of the “Stratospheric Ozone Protection” requirements of Title VI, section 609 of the CAA, 42 U.S.C. § 7671h, and the “Protection of Stratospheric Ozone” regulations found at 40 C.F.R. Part 82, Subpart B (Servicing of Motor Vehicle Air Conditioners). Acting as Complainant is Carol Rushin, Assistant Regional Administrator, Office of Enforcement, Compliance, and Environmental Justice, U.S. Environmental Protection Agency, Region 8 (“EPA”), who has been duly authorized to institute this action.

2. Consistent with section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), delegates of the EPA Administrator and the United States Attorney General have determined that this



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matter, which includes violations that occurred more than 12 months prior to the filing of this action, is appropriate for administrative penalty action.

3. Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A), provides that before issuing an administrative penalty order, the Administrator shall give written notice to the person to be assessed an administrative penalty and provide such person an opportunity to request a hearing. This Complaint, which is issued in accordance with the requirements set forth in 40 C.F.R. §§ 22.13 and 22.14 of the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits” (“Consolidated Rules of Practice”), constitutes such written notice and opportunity to request a hearing. A copy of the Consolidated Rules of Practice is enclosed.

## **II. STATUTORY AND REGULATORY FRAMEWORK**

4. Title VI of the CAA sets out requirements and prohibitions related to Stratospheric Ozone Protection. Section 609 of the CAA, 42 U.S.C. § 7671h, is contained within Title VI and sets forth requirements and prohibitions regarding the servicing of motor vehicle air conditioners (“MVACs”). Section 609 is supported by regulations promulgated pursuant to the authorities set forth in that section.

5. Under section 609(c) of the CAA, 42 U.S.C. § 7671h(c), no person repairing or servicing motor vehicles for consideration may perform any service on a motor vehicle air conditioner (“MVAC”) involving the refrigerant for such air conditioner without properly using approved refrigerant recycling equipment. 40 C.F.R. § 82.34(a), in pertinent part, similarly



provides: “No person repairing or servicing MVACs for consideration . . . may perform any service involving the refrigerant for such MVAC . . . (1) Without properly using equipment approved pursuant to § 82.36.”

6. Under 40 C.F.R. § 82.32(h), “service involving refrigerant” means “any service during which discharge or release of refrigerant from the MVAC . . . to the atmosphere can reasonably be expected to occur . . . [and] includes any service in which an MVAC . . . is charged with refrigerant but no other service involving refrigerant is performed (*i.e.*, a ‘top-off’).”

7. The Preamble to the Final Rule, 40 C.F.R. Part 82, 57 Federal Register 31242, 31246 (July 14, 1992), provides:

The Agency stated in the proposal that the intent of the Act is to require recycling of refrigerant in motor vehicle air conditioners whenever service is being performed that may release refrigerant to the atmosphere. This includes service of motor vehicle air conditioners and service of other motor vehicle components that may require some dismantling of the motor vehicle air conditioning system. Servicing of motor vehicle air conditioners, therefore, includes repairs, leak testing, and “topping off” of air conditioning systems low on refrigerant, as well as any other repair which requires some dismantling of the air conditioner. Each of these operations involves a reasonable risk of releasing refrigerant to the atmosphere.

8. 40 C.F.R. § 82.32(f) defines “refrigerant” as “any class I or class II substance used in a motor vehicle air conditioner. Class I and class II substances are listed in part 82, subpart A, appendix A. Effective November 15, 1995, refrigerant shall also include any substitute substance.”

9. 40 C.F.R. Part 82, subpart A, appendix A lists CFC-12 as a Class I controlled substance. The Final Rule, 40 C.F.R. Parts 9 and 82, 59 Federal Register 13044, 13081 (March



18, 1994), states that HFC-134a is acceptable as a substitute for CFC-12 in retrofitted and new MVACs.

10. Under section 609(c) of the CAA, 42 U.S.C. § 7671h(c), no person repairing or servicing motor vehicles for consideration may perform any service on an MVAC involving the refrigerant for such air conditioner unless such person has been properly trained and certified.

40 C.F.R. § 82.34(a), in pertinent part, similarly provides: “No person repairing or servicing MVACs for consideration . . . may perform any service involving the refrigerant for such MVAC . . . (2) Unless any such person repairing or servicing an MVAC has been properly trained and certified by a technician certification program approved by the Administrator pursuant to § 82.40.”

11. Under section 609(b)(4) of the CAA, 42 U.S.C. § 7671h (b)(4), “properly trained and certified” means:

training and certification in the proper use of approved refrigerant recycling equipment for motor vehicle air conditioners in conformity with standards established by the Administrator and applicable to the performance of service on motor vehicle air conditioners. Such standards shall, at a minimum, be at least as stringent as specified, as of November 15, 1990, in SAE standard J-1989 under the certification program of the National Institute for Automotive Service Excellence (ASE) or under a similar program such as the training and certification program of the Mobile Air Conditioning Society (MACS).

12. Section 609(d) of the CAA, 42 U.S.C. § 7671h(d), in pertinent part, provides:

(1) Effective 2 years after November 15, 1990, each person performing service on motor vehicle air conditioners for consideration shall certify to the Administrator either--



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(A) that such person has acquired, and is properly using, approved refrigerant recycling equipment in service on motor vehicle air conditioners involving refrigerant and that each individual authorized by such person to perform such service is properly trained and certified; or

(B) that such person is performing such service at an entity which serviced fewer than 100 motor vehicle air conditioners in 1991.

(2) Effective January 1, 1993, each person who certified under paragraph (1)(B) shall submit a certification under paragraph (1)(A).

40 C.F.R. § 82.42(a), in pertinent part, similarly provides: “(1) No later than January 1, 1993, any person repairing or servicing motor vehicle air conditioners for consideration shall certify to the Administrator that such person has acquired, and is properly using, approved equipment and that each individual authorized to use the equipment is properly trained and certified.”

### **III. GENERAL ALLEGATIONS**

#### **A. Respondent.**

13. Respondent is Bob Jones Tire Corporation.

14. At all times relevant to this action, Respondent was a corporation organized under the laws of the State of Utah.

15. At all times relevant to this action, Respondent’s business consisted primarily of the repairing and/or servicing of motor vehicles at one or more facilities, including at the facility that is the subject of this Complaint which is located at 4621 South 900 East, Salt Lake City, Utah 84117. Respondent received payment for the repairs and services it performed.



16. At all times relevant to this action, Respondent was a “person” within the meaning of section 302(e) of the CAA, 42 U.S.C. § 7602(e).

17. Mike Oliver, Chester Martinez, Bob Jenny, Terry Miller, and Ed Bowcott (hereinafter collectively referred to as the “Employees”) were employed by Respondent during all or a portion of the time period from May 14, 2002 to August 14, 2002.

**B. EPA Inspection.**

18. On October 16, 2002, EPA Inspectors Brenda South and Cindy Reynolds conducted an inspection of Respondent’s facility at 4621 South 900 East, Salt Lake City, Utah 84117.

19. During the October 16, 2002 inspection, Ms. South and Ms. Reynolds obtained documentation from Respondent showing that from May 14, 2002 to August 14, 2002, Respondent repaired and/or serviced twenty-nine (29) MVACs that utilized HFC-134a as refrigerant. The 29 MVACs were contained in the following vehicles and repaired and/or serviced on the following dates and in conjunction with the following invoices:

Date(s) of Service	Invoice No.	Vehicle (Year, Make and Model)	Date(s) of Service	Invoice No.	Vehicle (Year, Make and Model)
5/14/02- 5/15/02	087590	1994 GMC Jimmy	7/01/02- 7/02/02	088612	1999 Chevrolet Suburban
5/17/02	087677	1999 Nissan Altima	7/01/02	088614	1996 Isuzu Trooper
5/18/02	087699	1996 Honda Accord	7/02/02	088629	1997 GMC Jimmy
5/20/02- 5/21/02	087740	1998 Chrysler Concord	7/02/02	088631	1999 Nissan Pathfinder



<b>Date(s) of Service</b>	<b>Invoice No.</b>	<b>Vehicle (Year, Make and Model)</b>	<b>Date(s) of Service</b>	<b>Invoice No.</b>	<b>Vehicle (Year, Make and Model)</b>
5/31/02	087944	1994 Jeep Grand Cherokee	7/09/02	088747	1994 Chevrolet Cavalier
6/03/02- 6/05/02	088026	1995 Mazda Protege	7/11/02	088808	1994 Plymouth Voyager
6/05/02	088055	1994 Dodge Caravan	7/15/02	088897	1997 Ford Explorer
6/08/02	088138	2000 Dodge Intrepid	7/15/02- 7/16/02	088904	1995 Chevrolet S-10 Blazer
6/13/02	088240	1994 Plymouth Voyager	7/18/02	088986	1997 Ford Explorer
6/13/02	088241	1998 Kia Sephia	8/02/02	089250	2001 Chevrolet Tahoe
6/18/02	088341	1995 Honda Civic	8/07/02- 8/09/02	089339	1996 Jeep Grand Cherokee
6/20/02	088399	1996 Dodge Caravan	8/12/02	089426	2000 Mazda 626
6/20/02- 6/21/02	088408	1995 Volkswagen Jetta	8/13/02	089455	1995 Mercury Villager
6/25/02- 6/29/02	088496	1994 Dodge Caravan	8/14/02	089489	1995 Jeep Cherokee
6/27/02	088549	1994 Jeep Cherokee			

20. The documentation referenced in Paragraph 19 of this Complaint shows that the repair and/or service performed on the 29 MVACs set forth in Paragraph 19 was service during which discharge or release of refrigerant from the MVACs to the atmosphere could reasonably have been expected to occur and included repairs which required some dismantling of the MVACs, the leak testing of the MVACs, and/or the charging (*i.e.*, “topping-off”) of the MVACs.



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21. The documentation referenced in Paragraph 19 of this Complaint shows that the repair and/or service of the 29 MVACs set forth in Paragraph 19 was performed by one or more of the Employees on behalf of Respondent.



### **III. VIOLATIONS**

#### **COUNT 1**

#### **(Repairing and/or Servicing MVACs Without Approved Recycling Equipment)**

22. Paragraphs 1 through 21 of this Complaint are realleged and incorporated herein by reference.

23. Respondent did not provide the Employees with refrigerant recycling equipment approved pursuant to 40 C.F.R. § 82.36 to use on behalf of Respondent in conjunction with the repair and/or service of the 29 MVACs referenced in Paragraph 19 of this Complaint.

24. In repairing and/or servicing the 29 MVACs referenced in Paragraph 19 of this Complaint, the Employees did not properly use refrigerant recycling equipment approved pursuant to 40 C.F.R. § 82.36.

25. Respondent, which repaired and/or serviced MVACs for consideration, violated section 609(c) of the CAA, 42 U.S.C. § 7671h(c), and 40 C.F.R. § 82.34(a)(1) by performing the repairs and/or services set forth in Paragraph 20 of this Complaint involving the refrigerant for the identified MVACs without properly using equipment approved pursuant to 40 C.F.R. § 82.36. Respondent's violations are subject to the assessment of penalties pursuant to section 113(d) of the Act, 42 U.S.C. § 7413(d).



**COUNT 2**  
**(Repairing and/or /Servicing MVACs Without Proper Training & Certification)**

26. Paragraphs 1 through 25 of this Complaint are realleged and incorporated herein by reference.

27. During the times the repairs and/or services set forth in Paragraph 20 of this Complaint were carried out, the Employees were not properly trained and certified by a technician certification program approved by the Administrator pursuant to 40 C.F.R. § 82.40.

28. Respondent, which repaired and/or serviced MVACs for consideration, violated section 609(c) of the CAA, 42 U.S.C. § 7671h(c), and 40 C.F.R. § 82.34(a)(2) by performing the repairs and/or services set forth in Paragraph 20 of this Complaint involving the refrigerant for the identified MVACs without ensuring that the Employees had been properly trained and certified. Respondent's violations are subject to the assessment of penalties pursuant to section 113(d) of the Act, 42 U.S.C. § 7413(d).

**COUNT 3**  
**(Failure to Certify)**

29. Paragraphs 1 through 28 of this Complaint are realleged and incorporated herein by reference.

30. At all times relevant to this action, Respondent had not certified to the Administrator that it had acquired and was properly using approved refrigerant recycling equipment in service on MVACs involving refrigerant.



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31. At all times relevant to this action, Respondent had not certified to the Administrator that the Employees were properly trained and certified to use approved refrigerant recycling equipment in performing service on MVACs involving refrigerant.

32. Respondent, which repaired and/or serviced MVACs for consideration, violated section 609(d) of the CAA, 42 U.S.C. § 7671h(d), and 40 C.F.R. § 82.42(a) by failing to certify to the Administrator that it had acquired and was properly using approved refrigerant recycling equipment in service on MVACs involving refrigerant and that each individual authorized by Respondent to perform such service was properly trained and certified. Respondent's violations are subject to the assessment of penalties pursuant to section 113(d) of the Act, 42 U.S.C. § 7413(d).

#### **IV. PROPOSED ADMINISTRATIVE PENALTY**

33. The proposed civil penalty set forth in Paragraph 36 of this Complaint has been determined in accordance with section 113(d)(1), (d)(2) and (e) of the CAA, 42 U.S.C. § 7413(d)(1), (2) and (e). For violations occurring on or after January 31, 1997, section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19 authorize the assessment of a civil administrative penalty of up to twenty-seven thousand five-hundred dollars (\$27,500) per day of violation of, *inter alia*, the “Stratospheric Ozone Protection” provisions of the CAA and the rules promulgated thereunder.

34. For purposes of determining the amount of any civil penalty to be assessed, section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1), requires that EPA

. . . as appropriate, shall take into consideration (in addition to such other factors as justice may require) the size of the business, the economic



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impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

35. To develop the penalty proposed in this Complaint, Complainant has taken into account the particular facts and circumstances of this case with specific reference to EPA's "Clean Air Act Stationary Source Civil Penalty Policy," dated October 25, 1991 ("Penalty Policy"), including Appendix IX<sup>1</sup>, a copy of which is enclosed with this Complaint. This policy provides a rational, consistent and equitable calculation methodology for applying the statutory factors enumerated above to particular cases.

36. Based upon the facts alleged in this Complaint as known to Complainant at this time, and taking into account the penalty assessment criteria listed in section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1), Complainant proposes that Respondent be assessed a civil penalty of \$65,029 for the violations alleged in this Complaint. The proposed penalty calculations are set forth below.

#### APPENDIX IX:

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<sup>1</sup> Appendix IX is entitled "Clean Air Act Penalty Policy Applicable to Persons Who Perform Service for Consideration on a Motor Vehicle Air Conditioner Involving the Refrigerant or Who Sell Small Containers of Refrigerant in Violation of 40 C.F.R. Part 82, Protection of the Stratospheric Ozone, Subpart B: Servicing of Motor Vehicle Air Conditioners, July 19, 1993."



A. Economic Benefit Component

The economic benefit from delaying the purchase of approved refrigerant recycling equipment for 13 months plus the avoided cost of operating the equipment \$637

B. Gravity Component

Importance to the regulatory scheme:

Count 1 - Performing services for consideration on MVACs involving the refrigerant for such air conditioners without using approved refrigerant recycling or recovery equipment \$10,000

Count 2 - Performing services for consideration on MVACs involving the refrigerant for such air conditioners, for each person who performs such service who is not properly trained and certified by a technician certification program approved by the EPA Administrator (5 uncertified technicians @ \$5,000 each) \$25,000

Count 3 - Reporting Violation - Failure to certify to EPA that person performing service is using approved recycling equipment and that such person is properly trained and certified \$15,000

Potential Environmental Harm - 29 MVACs serviced using R134-a without properly using approved refrigerant recycling or recovery equipment (@ \$40 per vehicle) \$1,160

Size of Violator  
(Net worth of between \$500,001 - \$1,000,000 based on assumed gross annual sales of \$1,600,000) \$2,500

**Total Unadjusted Gravity Component:** \$53,660

**Preliminary Deterrence Amount (Economic Benefit + Unadjusted Gravity):** \$54,297



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**Adjustment Factors:**

20% upward adjustment to the gravity component - Bob Jones Tire Corp. should have been aware of section 609 requirements.

\$10,732

**TOTAL PENALTY AMOUNT:**

\$65,029



## **V. TERMS OF PAYMENT**

37. In accordance with 40 C.F.R. § 22.18, Respondent may resolve this proceeding at any time by paying the proposed penalty in full. If such payment is made within thirty (30) calendar days after receipt of this Complaint, no Answer need be filed. If Respondent needs additional time to pay the proposed penalty, Respondent may, within thirty (30) days of receipt of the Complaint, file a written statement with the Regional Hearing Clerk stating that Respondent agrees to pay the penalty, and then remit the penalty amount within sixty (60) days after receipt of the Complaint. Payment of the penalty shall: (1) be made by certified or cashier's check payable to "Treasurer, United States of America;" (2) identify the case title and docket number of this action (either on the check or in a transmittal letter accompanying the check); and (3) be remitted to:

U.S. Environmental Protection Agency, Region 8  
Regional Hearing Clerk  
P.O. Box 360859M  
Pittsburgh, Pennsylvania 15251

A copy of the check shall be sent to:

Regional Hearing Clerk (8RC)  
U.S. EPA, Region 8  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

and to:

Sheldon H. Muller, Enforcement Attorney (8ENF-L)  
U.S. EPA, Region 8  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466



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38. Payment of the penalty in accordance with the procedures set forth in Paragraph 37 of this Complaint shall constitute consent by Respondent to the assessment of the proposed penalty and a waiver of Respondent's right to a hearing in this matter.

39. Neither the assessment nor the payment of an administrative penalty pursuant to section 113(d) of the CAA, 42 U.S.C. § 7413(d), shall affect Respondent's continuing obligation to comply with the CAA or any other federal, state, or local laws or regulations and any compliance order issued under the CAA.

## **VI. NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

40. As provided in section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A), and 40 C.F.R. § 22.15(c), Respondent has the right to request a hearing in this matter. If Respondent decides to request a hearing to contest any material fact upon which the Complaint is based, contend that the penalty proposed in the Complaint is inappropriate, or contend that Respondent is entitled to judgment as a matter of law, Respondent must file a written answer in accordance with 40 C.F.R. § 22.15 within thirty (30) days after service of the Complaint.

41. In accordance with 40 C.F.R. § 22.15(b), Respondent's answer must: (1) clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint with regard to which Respondent has any knowledge (for those factual allegations for which Respondent has no knowledge and so states, the allegation is deemed denied); (2) state the circumstances or arguments which are alleged to constitute the grounds of any defense; (3) state the facts which Respondent disputes; (4) state the basis for opposing any proposed relief; and (5) state whether a hearing is requested. Pursuant to 40 C.F.R. § 22.15(d), failure of Respondent to



admit, deny, or explain any material factual allegation contained in the Complaint constitutes an admission of the allegation. Respondent's answer must be filed with:

Regional Hearing Clerk (8RC)  
U.S. EPA, Region 8  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

A copy of Respondent's answer and all other documents filed in this action must be served on:

Sheldon H. Muller, Enforcement Attorney (8ENF-L)  
U.S. EPA, Region 8  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

42. In accordance with 40 C.F.R. § 22.17(a), if Respondent elects to file an Answer to the Complaint but fails to do so within thirty (30) days after service of the Complaint, Respondent may be found to be in default and ordered to pay the penalty proposed in the Complaint. Additionally, a default by Respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations.

## **VII. SETTLEMENT CONFERENCE**

43. Whether or not Respondent requests a hearing, Respondent may confer informally with EPA concerning the alleged violations or the amount of the proposed penalty. Respondent may wish to be represented by counsel at the informal conference. If a settlement is reached, it will be memorialized in a written Consent Agreement, followed by the issuance of a Final Order by the Regional Judicial Officer, EPA-Region 8. To explore the possibility of settlement in this matter, contact:



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Sheldon H. Muller, (8ENF-L)  
Enforcement Attorney  
U.S. EPA, Region 8  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466  
(303) 312-6916

Please note that a request for an informal settlement conference does not extend the thirty-day period for submission of a written Answer.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8  
Complainant.

Date: 8/7/03

A. M. Gaydosh for/

Carol Rushin  
Assistant Regional Administrator  
Office of Enforcement, Compliance,  
and Environmental Justice  
U.S. EPA, Region 8  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

Enclosures:

40 C.F.R. Part 22  
CAA Penalty Policy



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In the Matter of Bob Jones Tire Corporation  
Docket No.

### **CERTIFICATE OF SERVICE**

I certify that on the date noted below, I sent by certified mail, return receipt requested, a copy of the foregoing ADMINISTRATIVE COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING, a copy of the Consolidated Rules of Practices Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22, and a copy of EPA's "Clean Air Act Stationary Source Civil Penalty Policy," dated October 25, 1991, including Appendix IX, to:

Robert B. Jones, President  
Bob Jones Tire Corporation  
4621 South 900 East  
Salt Lake City, Utah, 84117

Certified Return Receipt No: 700 1670 0007 7797 7504

The original and one copy of the foregoing ADMINISTRATIVE COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING were hand-delivered this same date to:

Tina Artemis  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
999 18<sup>th</sup> Street, Suite 300 (8RC)  
Denver, CO 80202-2466

Date: 8/11/03

SIGNED  
Judith M. McTernan

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE REGIONAL HEARING CLERK.**

**THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON 08/08/03.**



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